

REPORT OF THE SUPERIOR COURT CRIMINAL JUSTICE ACT PANEL IMPLEMENTATION COMMITTEE TO CHIEF JUDGE LEE F. SATTERFIELD

December 2010

The Criminal Justice Act Panels (“CJA Panels”) were originally created by Administrative Order 00-26, issued on July 17, 2000. Pursuant to the Administrative Order, panels of attorneys were established from which appointments were made for defendants found eligible for the appointment of counsel under the Criminal Justice Act (CJA) of the D.C. Code, Section 11-2601 to 2609 (2001), in connection with criminal cases prosecuted by the United States and the District of Columbia.

On January 20, 2010, Chief Judge Lee F. Satterfield issued Administrative Order 10-02 through which the Court re-established the CJA Panel, based on recommendations from the CJA Panel Implementation Committee (“the Committee”). In addition, as set forth in the Administrative Order, the Chief Judge determined that it is in the best interest of the administration of justice that the Court allow attorneys to apply for the Panel at any time and that the Committee consider such applications at such time as it deems appropriate based on Panel needs.

Pursuant to that directive, the Committee considered a number of applications filed after September 15, 2009 (the previous deadline) and on or before October 1, 2010. The Committee only considered applications from attorneys who had not previously applied to the CJA Panel, deferring all other applications, including re-applications by previous CJA Panel members, to early 2011 when it considers applications from Provisional and One-year Term Attorneys to become Full Members of the CJA Panel.

The Application Process

As stated, the application period was deemed to be September 15, 2009 (the deadline for applications when the CJA Panel was re-established), up to October 1, 2010. Any application filed after October 1, 2010 will be considered by the Committee in due course, under the rolling admissions procedure.

Information about the application process and a copy of the application were posted on the D.C. Superior Court’s website throughout the application period.

The application consists of twenty questions and requests information concerning the applicant’s educational background, work experience, relevant training, and trial experience. The application asks for the names of Superior Court judicial officers familiar with the applicant’s work and a description of significant cases handled by the applicant. Applicants are asked to detail any criminal history and/or history with the Office of Bar Counsel and to provide a Certificate of Discipline from every jurisdiction in which they are admitted and a Certificate of Good Standing from the District of Columbia Bar.

The Committee considered a total of forty-two applications. During the Committee’s deliberations, several applicants notified the Committee that they were withdrawing their

applications because they had accepted employment elsewhere. In several instances, the Committee accepted supplementary information from applicants after October 1, 2010, such as Certificates Concerning Discipline, because the provision of such information was dependent on offices over which the applicant had no control.

The Committee

Twelve Associate Judges and two Magistrate Judges participated in the Committee deliberations and recommendations. The vast majority of the Committee members have more than ten years of judicial experience. Several members of the Committee had extensive experience as criminal defense counsel before their appointments to the Court. The majority of the Committee was on the original CJA Panel Committee that made recommendations for the U.S. Panel in 2000, recommendations for additions to the Panels in 2004 and 2007, and re-establishment of the Panel in 2010. Thus, not only does the Committee as a whole have vast experience observing and evaluating attorneys, but it also has considerable experience selecting attorneys qualified to represent indigent defendants.

The Committee followed essentially the same selection procedures that were followed in the past. The sources of information about attorneys were as follows:

1. The responses provided by the applicants to the questions set out in the application form;
2. Input from Superior Court judicial officers whom the applicant identified as knowing him or her;
3. Knowledge of the applicants derived from Committee members themselves;
4. Input from the Advisory Committee, as hereafter described; and
5. Input from references outside of the Superior Court whose names the applicant provided.

Consideration of Applicants by the Committee

The Administrative Order requires that no attorney will be considered for the CJA Panel unless he or she has the following qualifications: (a) membership in good standing in the D.C. Bar; (b) an office within the metropolitan D.C. area; (c) a commitment to complete hours of CLE each year as may be required by the Court; (d) a commitment to comply with all applicable Administrative Orders setting an annual cap for attorney compensation for appointed representation; (e) a commitment to accept appointments in D.C.-prosecuted and Traffic matters; and (f) a commitment to comply with Superior Court Attorney Practice Standards.

Some applicants had not been admitted to the D.C. Bar either because they were awaiting results of the Bar exam or because they were waiting for their application for waiver to be decided. As set forth in the Administrative Order, if an applicant is not a member of the D.C. Bar, the applicant is not eligible for appointment to the CJA Panel. Therefore, the Committee

deferred any consideration of applicants who were pending admittance to the Bar, except for those applicants who notified the Committee they had been sworn in as members of the D.C. Bar.

In making its recommendations for Full membership on the CJA Panel, the Committee, as it has in the past, looked for the most highly qualified attorneys who would, at the very least, be able to handle a Felony II case capably. In addition, because it determined, after consultation with the Superior Court Trial Lawyers Association, that the Panel currently has sufficient number of attorneys to meet the present needs of the Court, the Committee recommended only attorneys it considered to be especially qualified.

The Committee recommends that one attorney be approved as a Conditional Member. As in the past, the Committee recognizes that an applicant can be currently employed in positions that make him or her unable to accept immediate appointments. The Committee recommends that such an applicant, who the Committee has concluded is otherwise qualified, be conditionally approved for the Panel. Such Conditional membership does not entitle the attorneys to accept appointments. Any attorneys conditionally approved may become Full or Provisional Members by notifying the Chairperson of the CJA Panel Committee that (a) they are now available to accept appointments; (b) they are still members in good standing of the Bar; and (c) no disciplinary action or investigation has been instituted against them since the filing of the application. Upon such a notification, the attorney will become a Full Member of the Panel and may accept appointments. If an attorney fails to make such a notification within nine (9) months of the date of their Conditional appointment, he or she is no longer eligible to become a member of the Panel based on their Conditional membership.

The Committee recommended for the Provisional Panel attorneys with excellent credentials or experience working in the Court with great potential, who had a demonstrated special interest in criminal law and/or in representing indigent persons, and who were willing to serve on the Provisional Panel.

Each member of the CJA Panel Committee was assigned responsibility for approximately four applicants. Committee members reviewed the applications; if appropriate, interviewed applicants and contacted references; and then presented a summary to the full Committee.

By Administrative Order 05-03, the Chief Judge directed that the Committee solicit the views of the CJA Panel Advisory Committee (“the Advisory Committee”) concerning each applicant. Accordingly, the Committee submitted a list of all applicants to the Advisory Committee. The Advisory Committee submitted its recommendations to the Committee. The Committee gave great weight to the Advisory Committee recommendations, many of which the Committee followed. The Committee thanks the Advisory Committee for its work.

The Committee met on November 19, 2010, and discussed the applicants. Usually there was a consensus about whether an applicant should be accepted to the Panel as a Full or Provisional Member.

Recommendations of the CJA Panels Committee

1. Panel Members

The attached list represents the recommendations of the CJA Panels Committee with respect to Full and Provisional Panel Members.

In summary, the Committee recommends three attorneys for appointment as Full Panel members, one attorney as a Conditional Member, and four attorneys as Provisional Members.

2. Future considerations

In their applications, the applicants specifically affirmed their commitment to accept appointment in D.C.-prosecuted matters, including matters on the Traffic Calendar. In the future, in determining whether an attorney will be recommended for future participation on the Panel, the Committee anticipates giving significant weight to whether attorneys have been active members of the Panel and, in particular, whether they have fulfilled their obligations in connection with accepting appointments in D.C. and Traffic Calendar cases.

The Committee also anticipates giving great weight to whether Panelists have complied with all Administrative Orders concerning annual compensation limits and to the appropriateness of Panelists' vouchering practices.

3. Training and necessary actions

It is the responsibility of Panelists to take all actions necessary to become familiar with the appointment and vouchering process. As in the past, the Committee recommends that all new panel members contact the SCTLA, which has in the past graciously agreed to assist new members of the Panel by providing them with the technical information necessary to begin receiving appointments to cases. The Committee also recommends that new panel members work with the Public Defender Service to obtain training as necessary. As in the past, the Committee will consult with SCTLA and the Public Defender Service to confirm that the Panelist has taken the necessary training prior to becoming eligible to accept appointments.

4. Effective date

The Committee recommends that the effective date of the additions to the Panels be the date of the issuance of the Administrative Order, or as soon thereafter as practicable.

On behalf of the District of Columbia Superior Court, the Committee thanks all attorneys who applied to the CJA Panels.

Respectfully Submitted:

CJA Panel Implementation Committee

Judge Robert E. Morin, Chair
Judge Jennifer Anderson
Judge Ronna L. Beck
Judge James E. Boasberg
Judge Erik P. Christian
Judge Natalia M. Combs Greene
Judge Harold L. Cushenberry
Judge Wendell P. Gardner
Judge Andrea Harnett
Judge Brian Holeman
Judge William Jackson
Judge Judith E. Retchin
Judge Robert I. Richter
Judge Richard Ringell

**RECOMMENDATIONS OF THE CJA PANEL IMPLEMENTATION COMMITTEE OF
ATTORNEYS TO BE APPOINTED TO THE CJA PANEL**

Full Panel Members:

Bruckeim, Michael

Smith, Abbe

Spiggle, Thomas

Conditional Member:

Cooper, Peter

Provisional Members:

Scanlon, Ann

Scrofano, Joseph

Smith, Lee

Sulton, Patrice